

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 DEAUNNA PHILLIPS, Plaintiff,
5 by and through her Mother,
6 SPARKLE STIDWELL, as next friend,

7 Plaintiffs,

8 vs.

Civil Action File

No:1:19-CV-00401-MHC

9 YASIN ABDULAHAD,

10 Defendant.

11
12
13
14 The remote deposition of INV. ARTHUR NIXON,
15 JR., Individually and as a 30(b)(6)
16 representative of the City of Atlanta, taken on
17 behalf of the Plaintiff via video teleconference,
18 taken pursuant to agreement of counsel, taken for
19 all purposes authorized by the Georgia Civil
20 Practice Act; the reading and signing of the
21 deposition being reserved; taken before Vivian C.
22 Whitlow, CCR, CVR, Certified Court Reporter and
23 Notary Public, commencing at 12:00 p.m., on this
24 the 8th day of June, 2021.
25

A P P E A R A N C E S

For the Plaintiffs:

JEFFERY FILIPOVITS, ESQ.
Spears & Filipovits, LLC
1126 Ponce de Leon Avenue, NE
Atlanta, Georgia 30306
Phone: 404-872-7086
Email: jeff@civil-rights.law

G. BRIAN SPEARS, ESQ.
Spears & Filipovits, LLC
1126 Ponce de Leon Avenue, NE
Atlanta, Georgia 30306
Phone: 404-872-7086
Email: bspears@civil-rights.law

For the Defendant:

STACI J. MILLER, ESQ.
JOSHUA FOSTER, ESQ.
City of Atlanta Law Department
55 Trinity Avenue, Suite 5000
Atlanta, Georgia 30303-3520
Phone: 404-546-4100
Email: sjmiller@atlantaga.gov

Also present:

Robert Evans, Spears & Filipovits, LLC

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1 P R O C E E D I N G S

2 THE COURT REPORTER: Before we proceed, I
3 will ask counsel to agree on the record that
4 under the current National Emergency pursuant to
5 Section 319 of the Public Health Service Act,
6 there is no objection to this deposition Officer
7 administering a binding oath to the witness
8 remotely.

9 Please state your agreement on the record.

10 MR. FILIPOVITS: Plaintiffs agree.

11 MS. MILLER: Defendants and the City agrees.

12 INV. ARTHUR NIXON, JR., Individually and as a 30(b)(6)
13 representative of the City of Atlanta, having been
14 duly sworn to tell the truth under oath,
15 testified as follows:

16 CROSS-EXAMINATION

17 BY MR. FILIPOVITS:

18 Q All right. Mr. Nixon, thank you for coming
19 in to help us out with this deposition today. Could
20 you please give us your full name.

21 A Yes. My name is Arthur Nixon, Det. Arthur
22 Nixon, Jr.

23 Q And what is your position with the City of
24 Atlanta?

25 A I'm an Investigator with the Office of

1 Professional Standards, Internal Affairs Unit.

2 Q Great. I'm going to show you an exhibit
3 here which is Exhibit 1.

4 (Plaintiffs' Exhibit No. P-1 was marked for
5 identification.)

6 BY MR. FILIPOVITS:

7 Q These are the deposition topics that we
8 provided to the City. My understanding is that you're
9 here to testify about Topics 1 through 7 and No. 10.
10 I'll show you No. 10, first. That's disciplinary
11 actions against Abdulahad or Robeson-El. You're here
12 to testify about that one, correct?

13 A Yes.

14 Q And then Topics 1 through 7, which you're
15 welcome to read through if you need to know otherwise
16 I could just scroll down. You can tell me when you're
17 ready to scroll. I just want to make sure we're on
18 the same page about what you're going to talk about.

19 A Yeah, that's fine. That's -- yeah, that's
20 fine. I'm ready.

21 Q Okay. Very good. So tell me what your
22 duties are as an Investigator -- just an overview of
23 your day-to-day duties as an Investigator with OPS.

24 A I investigate any applications of policy
25 violations committed by Officers. Policy violations

1 could turn into criminal allegations, but for the most
2 part, it's any alleged policy violations.

3 Q Are you assigned cases to investigate?

4 A Yes, sir, I am. Yes, sir.

5 Q How many other Investigators are in OPS who
6 share your same role?

7 A As far as on the shoot team, there are, one,
8 two -- there's five of us. But as far as
9 Investigators that investigate all policy violations,
10 there's about -- there's about ten of us.

11 Q Okay. You referenced the shoot team, tell
12 me what that means.

13 A Yes, it's the Officer-involved Shooting
14 Team. And what it is, it's comprised of a Lieutenant,
15 a Sergeant, myself and two other Investigators. And
16 whenever we have an Officer-involved shooting where an
17 Officer discharges their firearm, we are the ones that
18 go out and investigate it. And there's three
19 Investigators including myself. And there's one
20 Sergeant and one Lieutenant.

21 Q Did you -- you know about the case that's
22 the subject of this lawsuit, right, the Abdulahad
23 shooting?

24 A Yeah, I'm aware of it. I wasn't the one
25 that responded to this, but it -- because it was still

1 an open investigation when the Investigator retired,
2 it got handed off to me.

3 Q Got it. So you were not on the scene?

4 A No, sir, I was not.

5 Q So the -- you're here today to testify as a
6 designee of the City of Atlanta which means you are
7 standing in place of the City and your testimony will
8 be binding with the City. You understand that,
9 correct?

10 A Correct, yes.

11 Q Okay. So is it -- am I correct that you are
12 not going to be testifying about your personal -- when
13 we're talking about the facts of the incident, you're
14 not testifying about anything you observed personally.
15 You're testifying about what you learned after the
16 incident, right?

17 A Correct. Yes, sir.

18 Q So what did you consult or who did you
19 consult outside of the City attorney when preparing
20 for the deposition today?

21 A No one.

22 Q Okay. Did you consult any documents?

23 A Yes, about maybe 15 minutes ago, yes.

24 Q Okay. Tell me what those documents were.

25 A It was the actual file, the investigative

1 file.

2 Q Okay. Does that include the GBI report?

3 A I did look at the GBI report. I just wanted
4 to look at -- I wasn't here at work on Friday and I
5 was notified of the deposition on Friday so this is my
6 first time actually having access to the documents. I
7 wasn't here yesterday either. So today is the first
8 day I actually had to look at it.

9 Q Okay. So you have not looked at the GBI
10 report?

11 A I did back -- not in preparation for this.

12 Q Okay. When was the last time you did look
13 at it? Ball Park.

14 A Maybe about a year ago.

15 Q Okay. Can you describe what documents. You
16 said you had the OPS file. What was actually in that
17 file?

18 A Statements. The actual report. The GBI
19 file.

20 Q When you're talking about statements, whose
21 statements are you referencing?

22 A Investigator Abdulahad, Investigator
23 Robeson-El, Lieutenant Buldini, Sergeant Perretti;
24 anyone that was on scene and Investigator at the time
25 had to make a statement -- had to come in to make a

1 statement.

2 Q You said the Investigator at the time had to
3 come in to make a statement? I'm just making sure
4 heard you correctly.

5 A The Investigator who it was assigned to --
6 it was assigned to Investigator Don Half [ph] and
7 whoever he felt needed to come in to make a statement,
8 he would have them come in and make a statement.

9 Q Okay. Is Investigator Half the one who
10 retired?

11 A Yes, he retired and Lieutenant Bennett
12 retired also. Yes, sir.

13 Q The statements that you're referencing, are
14 those that were made to APD pursuant to a Garrity
15 warning?

16 A That's correct.

17 Q Okay. So in the OPS file, we've got those
18 witness statements, you referenced a report. What
19 report are you talking about?

20 A The actual Incident Report. Yeah, with the
21 Incident Report that the -- whoever the Officer was at
22 the time or whoever (audio distortion) incident
23 report -- make an incident report (audio distortion).

24 Q Do you have that with you?

25 A Yes.

1 Q Would you mind holding it up to the screen?
2 I just want to see if I have a copy of that.

3 A This Incident Report (indicating) is going
4 to be very concise and short. This is where
5 Investigator Abdulahad says that he discharged his
6 weapon so that he could get his ammunition back
7 because we have to account for each round. So what
8 typically the Officers would do, they would do a very
9 short Incident Report acknowledging they discharged
10 their weapon, but the GBI will come in and actually
11 give us the nuts and bolts of what actually happened.

12 Q Understood. Would you mind reading to me --
13 does that say narrative on that report? Is there a
14 narrative heading?

15 A Yeah, it is an incident narrative, but it's
16 just basically a couple of lines. It says on
17 January 26, 2017, I, Investigator Abdulahad, was
18 involved in an incident where I discharged my
19 City-issued weapon. The scene was secured until the
20 GBI came to take over the scene.

21 Q Got it. Okay. Okay. I don't want to make
22 this more painful than we need to, but I want to make
23 sure I know everything that you've looked at. So
24 we've got the witness statements that were given to
25 OPS. We got that report that you just read; you

1 referenced a GBI file, we don't have to talk about
2 that. Is there anything else?

3 A There's a Use of Force Report. And
4 basically what a Use of Force Report is is the
5 Supervisor will complete a Use of -- whenever there's
6 any force done at the scene of an incident, whether
7 it's physical or in this case, a shooting, the
8 Supervisor will complete a Use of Force Report
9 documenting --

10 Q Let's pause for a second.

11 (A discussion was held off the record.)

12 BY MR. FILIPOVITS:

13 Q Okay. All right. So with all that, I lost
14 track of where we were. So we were talking about OPS
15 file, what's inside of it; we got the statements that
16 were given to the City of Atlanta as part of its
17 internal investigation; you got the report you
18 referenced; then you referenced another, Use of Force
19 Report, that was different than the Firearms Discharge
20 Report?

21 A Yeah, there's a Firearm Discharge Report and
22 a Use of Force Report. The Firearms Discharge Report
23 basically says where the suspect was struck, how many
24 rounds were fired, the Officer's name, the suspect's
25 name. The Use of Force Report will have a narrative.

1 It will show what type of force whether it was pepper
2 spray, gunshot, physical hands, and sometimes the --
3 sometimes, not all the times, but sometimes the
4 Supervise will place in the narrative box whether or
5 not if it was justified or not.

6 Q Okay. Do you have that report in front of
7 you there?

8 A Yes, I have it.

9 Q You mind holding it up. It doesn't sound
10 familiar to me so I want to see if I have that.

11 A (Witness complies.)

12 Q That box you described about whether the use
13 of force was justified or not, can you tell me if
14 that's checked.

15 A Yeah, sometimes the Supervisors will -- it's
16 a narrative, the box is actually a narrative that they
17 write and it's right in here (indicating). And what
18 this Supervisor wrote was Investigator was flagging a
19 warrant at the Public Safety Annex when he had a
20 police/citizen encounter and an altercation ensued
21 where the involved party was shot by the Investigator.
22 He didn't put down whether it was justified or not,
23 but there have been instances of the past where the
24 Supervisor will say it was a good justifiable shooting
25 or use of force or if it was a bad justifiable use of

1 force.

2 Q Okay.

3 A As of late, the Supervisors have been
4 letting the GBI say if it was good or bad within their
5 investigation. Now, the GBI doesn't make a
6 determination on whether it was a good use of force or
7 bad use of force, but you can generally get the sense
8 of where they're going with it through their
9 investigation and how they write it.

10 Q Understood. Tell me about how OPS
11 handles -- how an OPS investigation and a GBI
12 investigation overlap.

13 A The investigation is pretty much done at the
14 same time. They're doing a criminal investigation
15 because it will be handed off to the DA's office,
16 where we are conducting strictly an administrative
17 investigation. Since the persons involved, the
18 majority are going to be employees, who has to make a
19 statement to us which is created by Garrity and the
20 GBI is also conducting their investigation. When it
21 comes to evidence and some things, we typically don't
22 do that, we let the GBI do that. And when the GBI is
23 finished with their investigation, they'll hand us
24 their investigation. It will be on a thumb drive and
25 we go through their documents and how they have

1 everything labeled and we will print everything out
2 and merge it with our investigation.

3 So if they get a statement from an Officer,
4 we might already have a statement from the Officer, if
5 the Officer decides -- the Officer and their attorney
6 decides to give a statement to the GBI, then we will
7 two statements from the Officer.

8 Q OPS does not seize evidence if there's
9 simultaneous GBI investigation?

10 A Correct, because the evidence is considered
11 a criminal matter and we're strictly administrative.
12 Say like a bloody shirt or a shell casing, we won't
13 touch that because it's -- that's going to be
14 considered evidence on the criminal side.

15 Q Do you work collaboratively with the GBI?
16 Like suppose that you wanted to get some piece of
17 evidence that the GBI might not have been interested
18 in, it might not be relevant to their criminal case,
19 but maybe you think it could bear on policy violation,
20 do you communicate with the GBI about that?

21 A Yeah, we do. If there's a question that we
22 might have, we'll find out who the lead -- typically
23 when we respond out to the shooting, we'll meet
24 whoever the lead Investigator is on the GBI side and
25 we'll exchange numbers and I pretty much know all the

1 GBI agents, so I might -- I probably already have
2 their number. But if I have a question about
3 anything, I can call them and say, Hey, XYZ, you know,
4 what happened? And he can tell me, but I can't give
5 any information to him because everything is Garrity
6 protected.

7 Q So let's talk about this incident and the
8 investigations that we have that relate to the
9 underlying facts of this incident. First, was this
10 scene of the shooting regarded as a crime scene as it
11 relates to City policy?

12 A Yes.

13 Q Okay. Do you have a timeline of when the
14 shooting occurred and who was on the scene, you know,
15 who arrived on the scene first and when the GBI
16 actually arrived?

17 A Can I look at the file?

18 Q Yeah, sure.

19 A Okay.

20 Q You know, I can also show you some stuff
21 that might help and see if you agree with what I'm
22 showing you.

23 A That will work, too.

24 Q Okay. Let's do that. I'm going to share
25 Exhibit 2 with you.

1 (Plaintiffs' Exhibit No. P-2 was marked for
2 identification.)

3 BY MR. FILIPOVITS:

4 Q This is a number of documents that was
5 provided by the City and I'm going to -- a portion of
6 the GBI Investigative Summary. This states -- this
7 states -- this is Bates number 939, June 26, 2017, I
8 think that's a typo. It's got to be January, at
9 approximately 7:57, Clinton Thomas was in contact with
10 Sergeant Moody.

11 Do you have any reason to doubt or question
12 that at 7:57 on the night of the shooting is when the
13 City of Atlanta reach out to the GBI?

14 A Yeah, other than the date, no, not at all.

15 Q Yeah, and we agree that January 26, 2017?

16 A Yeah. Yeah.

17 Q Okay. Okay. So we take that timing of
18 contact and then let's look at Page 940, which is the
19 next one. And it says, January 26, 2017 at 8:55 p.m.,
20 Special Agent Thomas met with officials. You can read
21 that first paragraph to yourself, but you agree that
22 that's the time of the first meeting?

23 A Yes.

24 Q Okay. So that means, you know -- by the
25 way, do you personally know Special Agent Thomas?

1 A I did, yes. I don't believe he's with the
2 GBI anymore, but, yes, at the time, I did know him. I
3 think we might have met on a shooting incident after
4 this one.

5 Q Okay. So based on that exhibit, GBI was
6 contacted at 7:57 p.m. and then arrived and had their
7 first meeting, and by "they" I just mean a GBI agent
8 at 8:55 p.m. Any reason for the City to question that
9 account?

10 A No, sir.

11 Q Okay. That would mean that the City
12 controlled the scene and by that I mean the City
13 Officers were in charge of the crime scene from the
14 time of the shooting until at least 8:55 p.m., right?

15 A Correct.

16 MS. MILLER: Objection, but you can answer.

17 A Correct.

18 BY MR. FILIPOVITS:

19 Q Okay. So for about an hour?

20 A Yes, because it typically takes the GBI
21 about an hour to get to the scene.

22 Q Okay. So the City of Atlanta has a number
23 of policies that relate to preserving a crime scene,
24 correct?

25 A Correct.

1 Q I'll just ask you some questions generally
2 about that policy. You know, if -- I'm trying to
3 avoid pulling it up and going section by section. So
4 tell me if you agree with these -- that these
5 propositions, you know, generally reflect the City
6 policy that would have governed the actions of the
7 Officers on the scene of the shooting prior to the
8 GBI's arrival, okay?

9 A (Nods head up and down.)

10 Q First, you know, Officers are to ensure that
11 the crime scene remains undisturbed to the maximum
12 extent possible?

13 A Correct.

14 Q And to the extent anything at the scene is
15 disturbed or moved for some reason, that is to be
16 logged, documented, and communicated to the
17 Investigator in charge of the scene, right?

18 A Correct.

19 Q Officers at a crime scene are to separate
20 witnesses so that witnesses can't communicate with
21 each other about what they saw, correct?

22 A Correct.

23 Q The Officers are to review the actions of
24 any first responders and document any way in which the
25 actions of the first responders disturb the crime

1 scene?

2 A Correct.

3 Q And in addition to this being a crime scene
4 that there are two other policies that come into play
5 which is that it was a homicide investigation,
6 correct?

7 A Correct.

8 Q And it was an Officer-involved shooting?

9 A Correct.

10 Q When Officers are in charge of a crime scene
11 such as this one, they are required to keep a log of
12 any person who enters or leaves the scene, correct?

13 A Correct.

14 Q Tell me how the Officers, as a matter of
15 policy, would have regarded the scope of the crime
16 scene here. Would it have been the car, the entire
17 parking lot, or something in between?

18 A It should have been the parking lot. In my
19 opinion, it should have been the entire parking lot,
20 but definitely the car. Once the Officer involved in
21 the use of force tells someone what happened and where
22 it happened, that particular area would be considered
23 the crime scene. But just to make sure there's no
24 evidence -- once they found out the car moved from
25 point A to point B then all of that area is considered

1 part of the crime scene because something could have
2 fell out. You just never know what happened between
3 point A and point B.

4 Q Okay. I'm going to show you an exhibit here
5 that is also from the GBI investigation. We're going
6 back to Exhibit 2 and here we are on page Bates
7 number 943. Down here at this paragraph I'm
8 highlighting that the second -- the last full
9 paragraph on the page, it states that Special Agent
10 Ellis noted that the vehicle driven by the subject was
11 not searched prior to a search warrant being obtained
12 by Special Agent David Jones. Is that your
13 understanding as well that no APD Officers searched
14 the vehicle prior to the GBI obtaining a search
15 warrant?

16 A Yes.

17 Q So tell me, in a situation like this one
18 where the Officers, the APD Officers there, did know
19 that the GBI was going to be investigating this?

20 A They should have because the GBI started
21 investigating Officer-involved shooting in 2016. So
22 this was not the first investigation the GBI had with
23 our Officers in an Officer-involved shooting.

24 Q When the GBI does investigate an
25 Officer-involved shooting, is the role of APD as a

1 matter of policy and practice with the City to simply
2 secure the scene and deal with any exigency that might
3 be present, but then otherwise to preserve the scene
4 for the GBI?

5 A Right. That's totally correct.

6 Q Okay. So do you know if the City Detectives
7 aren't going to be logging evidence or taking photos
8 or anything of that nature?

9 A They shouldn't be, no. It's -- once the
10 GBI -- once it's determined that GBI is going to get
11 involved, then it's pretty much a hands off for the
12 City.

13 Q Okay. So the City's role then would be to
14 make sure that any movement of the scene that happens
15 before the arrival of the GBI or any activity in the
16 scene is reported to the GBI, so the GBI knows whether
17 anything had changed from the time of the crime to the
18 time of their arrival?

19 A Correct. And we also assist with -- with
20 anything, you know, like reports that might be done
21 internally, like the use of force or if they need
22 anything as far as reports, we'll give it to them.
23 But as far as the incident itself on the scene, we're
24 there just to maintain the scene until they arrive.

25 Q Okay. All right. So I'm showing you -- I'm

1 going back to Exhibit 2, Bates number 944. And again
2 the last full paragraph here, the sentence I'm
3 interested in here -- well, let me just clarify. The
4 black or dark blue Chevy Malibu, that's the car that
5 Phillips was -- that references the car that Phillips
6 was driving when he was shot, correct?

7 A Correct.

8 Q It is not a trick question. I can go up and
9 show you something else if you need to see it.

10 A Okay.

11 Q Okay. The proceeding page, 943, Special
12 Agent Ellis notes the vehicle driven by the subject,
13 black or dark blue colored Chevy Malibu was not
14 searched. Okay. So you agree the Chevy Malibu
15 they're referencing is the one that was being driven
16 by Phillips, right?

17 A Correct.

18 Q Okay. So the -- what this paragraph
19 reflects on page 944 is that when the GBI arrived,
20 that Malibu was running, right?

21 A Correct.

22 Q And that the car was still running is
23 consistent with what we just discussed, which is the
24 Officers on the scene should not touch or disturb the
25 scene in any way. And so the car was running, they

1 left it running, right?

2 A Correct. Yes, sir.

3 Q Okay. And so same thing here, the front
4 driver and passenger doors were open. Again, you
5 know, if that's the condition that they found at the
6 scene when they arrived, then that's the condition
7 they should preserve it in for the GBI?

8 A Correct. You know, the only -- I think the
9 door -- the driver door was probably opened, they
10 probably tried to render aid until the determination
11 that he was actually deceased is my guess as to why
12 the door was opened.

13 Q Okay. So it could be that EMS opened the
14 door. If the door was closed and EMS opened the door
15 then that's something that should have been noted and
16 supplied to the GBI, correct?

17 A It should have, yeah. It should have.

18 Q So for example if we go down to page 961 of
19 the GBI -- or, I'm sorry, Bates number 961 of
20 Exhibit 2. This is a continuation of the GBI report?

21 A Okay. Yeah, I see it.

22 Q Yeah, EMS and AFD advised that Phillips was
23 moved slightly to check for a pulse. So again,
24 someone is relaying information to the GBI about what
25 activities the first responders took on the scene,

1 right?

2 A Yes, sir, correct.

3 Q Okay. Do you have any additional
4 information about this that -- the statement that
5 Phillips was moved slightly to check for a pulse?

6 A No, sir.

7 Q No?

8 A No, sir.

9 Q Okay. Is there anywhere that that
10 information would have been written down in a report
11 by APD or would that just have been communicated
12 verbally to the GBI?

13 A That Phillips -- that Phillips did not make
14 statement?

15 Q Oh, no, well, I -- it's really not a
16 specific question as it relates to that statement.
17 It's really just, you know, before the GBI gets there,
18 should there be a written log or report that APD
19 creates to communicate anything that happened at the
20 scene before GBI got there? Should that be in writing
21 or is that typically communicated verbally to GBI?

22 A It can be both. Say like there's a log --
23 there's supposed to be a log of people who come into
24 the crime scene and their name is written down. But
25 if something is unusual about the crime scene,

1 typically that will be related verbally to whoever the
2 lead Investigator is.

3 Q Okay. I'm going to show you Exhibit 5.
4 (Plaintiffs' Exhibit No. P-5 was marked for
5 identification.)

6 BY MR. FILIPOVITS:

7 Q Just to clarify, is this the type of crime
8 sheet -- Crime Scene Log Sheet that you just
9 referenced?

10 A Yes, that's it.

11 Q Is this an APD form that we're looking at?

12 A Yes, it is. It's a generic form, but it's,
13 yeah, it's an APD form.

14 Q Okay. Do you know who created this form?

15 A No, I don't. Typically, whoever the first
16 Supervisor is to arrive on scene will designate one of
17 the Officers on scene to start a log, start a Crime
18 Scene Log.

19 Q Oh, actually we do know, right? Log keeper.

20 A Okay. Yeah. Okay. And Buldini, her name
21 being the first one on top, she was probably the first
22 Supervisor on scene.

23 Q Okay. The order in which the names appear
24 on this log is to reflect the order in which people
25 appeared on the scene; is that right?

1 A Correct. Usually once the Officer creating
2 the log see someone, they'll go over and they'll ask
3 them their name. If they're in civilian clothes,
4 they'll ask them their rank and then ask them what
5 their unit number is.

6 Q Okay. Is this number of Officers, I mean --
7 well, does the City have any idea what each of these
8 Officers were doing on the scene? Is there any
9 written log of what role these guys or, you know, men
10 and women were playing?

11 A The majority -- some of these I see are
12 Supervisors and I think also with -- I can't remember
13 if we ever had a shooting at our Annex before, but
14 just the fact that we had a shooting at the Annex,
15 that probably spurred more people to come out to see
16 what was going on.

17 Q Do you have any idea how many Officers, you
18 know, maybe might have been in that Annex on that
19 evening?

20 A That was going -- around 7:00, that was
21 going to be after hours so it's not going to be that
22 many on the inside. There are Officers that worked in
23 there 24/7. But there weren't that many on the inside
24 on this particular evening I'm assuming. But all of
25 these Officers are going to be -- there's a lot of --

1 I see Lieutenant, Sergeants, Deputy Chiefs, more
2 Lieutenants, Sergeant, a Major, but there's a lot of
3 Supervisors that came out on this particular shooting.

4 Q Okay. Regardless of the number of
5 Supervisors or Officers on the scene, you expect each
6 one of them to follow City policy and not disturb the
7 crime scene in any way?

8 A Correct.

9 Q So, for example, I want to go back to
10 Exhibit 2 for a moment. So we're on page 9 -- Bates
11 number 944 of Exhibit 2 and we see the last sentence
12 on this page starts, A black and blue in color Los
13 Angeles Dodgers baseball cap was located on the roof
14 of the vehicle on the passenger side of the car.
15 Examination of the cap revealed blood stains on the
16 top outer surface of the cap.

17 So that cap would not have been moved from
18 the car to the roof by any APD Officer, correct?

19 A Should not have. It says blood was on it.
20 The only thing -- I don't know who would have moved
21 it.

22 Q Okay. And I can just tell you that was
23 Abdulahad's cap. I mean, I'm not going to pull it up
24 but what I'm getting at is if he -- if Abdulahad
25 placed that cap on the top of the car after the

1 shooting, that's where it would have remained, right?

2 A Correct.

3 Q Okay. Okay. I have some questions for you
4 about the underlying facts and what the City's
5 investigation -- what the City has learned through its
6 investigation of this.

7 First, I think we answered this. No
8 photographs were taken of the scene by a City
9 employees, correct?

10 A Should not have, correct.

11 Q Did the City make any effort to determine
12 the distance that the car in which, you know, Phillips
13 and Abdulahad were driving in how far that car
14 traveled?

15 A The City would not have. That would be
16 considered or on the criminal side. If it was done,
17 the GBI would have done it.

18 Q Okay. Likewise, well, let me ask it this
19 way: So let's -- whether Officer Abdulahad was
20 truthful in his statements to OPS is a matter that is
21 of relevance to the City's OPS investigation, correct?

22 A Say that again.

23 Q Whether Officer Abdulahad was truthful in
24 his statements to OPS is relevant to your -- the OPS
25 investigation, right?

1 A Oh, yes, correct. Yes.

2 Q Lying would be a violation of policy?

3 A Right.

4 Q Lying would also be, you know, could be a
5 criminal violation, correct?

6 A Correct. Yes, it sure can.

7 Q Well, in a situation -- in that situation,
8 how does the City go about investigating whether there
9 were any, you know, complications in a statement to
10 OPS when the GBI's investigating the same thing?

11 A Most of the time when they give, if they
12 give a statement to the GBI, we would compare the
13 statement given to the GBI with the statement given to
14 us. And if there are any discrepancies, either we'll
15 find out about it or even at the DA's office may find
16 out about it if they subpoena the file -- the
17 statements. What they're looking for is any
18 truthfulness that -- they can't -- the DA's office
19 can't use against the Officer with the exception of
20 the truthfulness. So if they discover the
21 truthfulness, they will go ahead and charge the oath
22 of office -- Violation of Oath of Office with the
23 perjury.

24 Q What if you have to -- what if the
25 truthfulness doesn't depend on inconsistent

1 statements, but it depends on physical evidence that
2 could, you know, indicate that a statement's false.
3 So do to the City then just wait for the GBI's
4 investigation to be complete or does the City request
5 evidence from the GBI? How does it --

6 A If we're made aware that there is something
7 that may led us to think that the Officer was
8 untruthful in making a statement, we'll dive right
9 into it to see exactly what's going on. And if we
10 need to reach out to the GBI, then we'll try to
11 conclude it, you know, we'll try to reaffirm our
12 assertion whether or not the Officer was lying or
13 not and then call the Officer back in to challenge him
14 or her on whatever it is they were being untruthful
15 about.

16 Q The City does not hold its OPS
17 investigation, like in abatement until the GBI
18 investigation is complete. There are certain
19 circumstances where the City will continue to
20 investigate prior to the conclusion of the separate
21 GBI investigation?

22 A What we've done in the past is once -- like
23 I say, with this particular case, we have the GBI
24 investigation, but it's still considered open because
25 the DA's office is looking at it. And once we get a

1 determination from the DA's office that they intend to
2 either indict him or not indict him, then we'll close
3 our portion of it and turn it in. But we usually
4 don't turn it in unless we have a letter from the DA's
5 office saying that there are no criminal -- there's no
6 criminal conduct by that Officer.

7 Q So the ultimate disposition of the internal
8 OPS investigation will be resolved if the DA's office
9 decided not to charge?

10 A If they decide not to charge, then the
11 criminal aspect will be done, but let's say Abdulahad
12 violated some policies. So if he violated some
13 policies, then he will get reprimanded for the policy
14 violation at the time that the criminal
15 investigation was over with. Once we get the
16 determination that the criminal investigation was
17 done, then I turn that file in to my Supervisors and
18 then they through and they acknowledge if there was
19 any policy violations.

20 Q Okay. Is the City aware of the Fulton
21 County District Attorney's Office investigation as it
22 relates to communications between Abdulahad and
23 Robeson-El after the shooting?

24 A Are we aware of any?

25 Q Yes.

1 A Not to my knowledge. No, sir.

2 Q All right. I'm going to ask you a few
3 questions just about what the City has determined with
4 regard to certain underlying facts. Based on our
5 conversations so far, I assume the answer to most of
6 these is going to be that the City has not made such a
7 determination, but I want to run through those. So,
8 you know, you can say -- if you say, yes, you know,
9 I'll ask you a follow-up and say what has the City
10 determined. If you say no, I'm going to assume that
11 that not just means the City has not made a finding or
12 investigated that and is relying on, you know, the GBI
13 and/or the Fulton District Attorney's Office, okay?

14 A Okay.

15 Q Makes sense? Okay. Does the City have any
16 information or belief concerning the location of any
17 gun that was found inside the car?

18 A Do we have any knowledge?

19 Q Yeah. Have you, for the purposes of your
20 OPS investigation, gathered evidence concerning the
21 location of the gun?

22 A No.

23 Q Okay. What about the Detective's car, did
24 the City perform a search of Abdulahad -- the car
25 being driven by Robeson-El and Abdulahad?

1 A Not to my knowledge. I'd have to check -- I
2 don't believe, but I would have to check the report
3 just to make sure, but I don't believe so.

4 Q Did the City investigation concern
5 determining how the car being driven by Phillips
6 ultimately came to a stop?

7 A No, sir.

8 Q It did not determine when the car came to a
9 stop relative to the time of the shooting, i.e.
10 whether it was before or after the shooting?

11 A No, sir.

12 Q Did it determine whether there's any
13 evidence showing that Abdulahad touched the emergency
14 brake either before or after the shooting?

15 A No, sir.

16 Q APD did not do any dusting for fingerprints,
17 correct?

18 A Correct.

19 Q Aside from the information concerning EMS
20 slightly moving Phillips to check his pulse, did APD
21 move Phillips in any way or, you know, gather any
22 evidence concerning the exact location of his body?

23 A Not to my knowledge, no, sir.

24 Q Did APD make any investigation into or
25 determination of whether the driver side door was open

1 at the time of the shooting?

2 A No, sir.

3 Q And -- but we can say that to the extent
4 anyone with APD moved that door, that that
5 information, as a matter of policy, should have been
6 communicated to the GBI agent?

7 A Correct, yes, sir.

8 Q And the City has not taken any disciplinary
9 action or investigation against any Officer who was on
10 the scene prior to the arrival for the GBI for failing
11 to communicate information to them or for disturbing
12 the crime scene?

13 A Correct.

14 Q Same question as it relates to the
15 passenger-side door. APD did not make any
16 investigation as to whether that door was open or
17 closed at the time of the shooting, right?

18 A Correct, correct.

19 Q Can you tell me what EAP stands for if you
20 use that acronym it with the City.

21 A Yes. EAP is the Employee Assistance
22 Program. And what that is if an employee, let's say
23 in this particular situation, anytime there's a
24 traumatic incident that happens like this, EAP, a
25 representative from EAP, usually a doctor, will come

1 out to the scene to make sure that they are mentally
2 okay. And if they need any time off, if they need to
3 have an extended amount of time off, that doctor will
4 say, Hey, Abdulahad needs X amount of days off so that
5 he can, you know, compose himself and get himself
6 mentally where he needs to be at.

7 Q Okay. So EAP is a -- was that Employee
8 Assistance Program?

9 A Employee assistance, yeah, Employee
10 Assistance Program.

11 Q So that relates strictly to -- hold on a
12 second.

13 (A brief discussion was held off the record.)
14 BY MR. FILIPOVITS

15 Q So we said it's employee, not employment
16 Assistance Program, right?

17 A Correct.

18 Q And that program just relates to mental
19 health/fitness for duty?

20 A Yeah, fitness for duty. It can go from, if
21 an Officer has any substance abuse issues that, say
22 alcohol, they can go to EAP to get put on some type of
23 treatment plan. If they're having some type of
24 financial issues, they can go over there and they can
25 help them out with getting on some type of a budget.

1 So they're a well-rounded unit and is there for the
2 Officer whatever personal distress comes up.

3 Q Do you have any record of any contact
4 between Abdulahad and EAP?

5 A I don't have any record, but that's usually
6 private since it's a -- there's usually a doctor that
7 interacts with the Officer. But I believe how EAP
8 works is, let's say if I was the Supervisor and I knew
9 my Officer had an alcohol problem, if the Officer went
10 on their own to EAP, then the City will not find out
11 any of the results. But if I had to recommend the
12 Officer to go, then I would be kept in the loop on
13 what's going on. So I'm not sure if -- I'm sure EAP
14 probably did make contact with Abdulahad, but I don't
15 know what happened.

16 Q Is the City aware of a statement by Officer
17 Robeson-El that he did not hear the gunshot that
18 Abdulahad fired?

19 A Correct.

20 Q Has the City made any determination as to
21 the veracity of that statement that he did not hear
22 the gunshot?

23 A Not to my knowledge. No, sir.

24 Q Is there any records of any APD Officer or
25 City employee who was at the scene of the incident

1 after, you know, after it occurred verifying that
2 there was a smell of marijuana?

3 A After the incident occurred?

4 Q Yes.

5 A Not to my knowledge.

6 Q Is there -- do you have any information
7 specifically related to the marijuana alleged to have
8 been found on Phillips person as to whether, first,
9 whether it has been tested and the results of that
10 test, if any?

11 MS. MILLER: Objection, but you can answer.

12 A No, sir.

13 BY MR. FILIPOVITS:

14 Q Does the City have any information regarding
15 how the marijuana was packaged, to the extent it was
16 marijuana?

17 A No, sir.

18 Q And then you would expect that the City
19 doesn't know about that because knowing about that
20 would have required breaching the crime scene prior to
21 the GBI arrival, right?

22 A Correct.

23 Q Can you provide any account of where
24 Abdulahad and Roberson were moved, physically moved
25 after the incident. Were they separated from each

1 other?

2 A They should have been. That would have been
3 on the first Supervisor that would have gotten to the
4 scene. The first Supervisor would have been the one
5 to instruct the two to stay, you know, you stand
6 there, you stand there and wait for the GBI to get
7 here.

8 Q What's the purpose of separating them?

9 A So that -- so they can't get the stories to
10 rhyme together -- to, you know, we want to hear
11 your -- what happened. We want to hear what you have
12 to say. We don't want you to get together and come up
13 with a story, create something. We want -- we
14 separate them so they can't get together and tell
15 their -- we want to hear separately what happened.

16 Q Right. You don't want them to influence
17 each other's recollection of how things unfolded?

18 A Correct.

19 Q And if they're -- it's standard practice for
20 any witnesses to a crime, right?

21 A Right.

22 Q And here, the only witness to this event
23 was -- is it fair to say that Robeson-El was the
24 primary witness to this event?

25 A Right.

1 Q There may have been people in the parking
2 lot, but they can't really provide us any detail of
3 what happened inside the car, right?

4 MS. MILLER: Objection, but you can answer.

5 A If I remember correctly, the video, there's
6 was one, I believe it was a black male, he was in the
7 parking lot, but I'm not sure to what he saw.

8 BY MR. FILIPOVITS:

9 Q Right. The one who was crouched behind the
10 white car?

11 A Correct, yes.

12 Q And then we see him sort of run quickly, you
13 know, leave and run into the building, right?

14 A Correct, sir, correct.

15 Q Okay. Aside from that gentleman, Robeson-El
16 would have been the only other witness to --
17 eyewitness on the scene, right?

18 A Correct, yes, sir.

19 Q Does the City have any information
20 concerning Phillips being a member of any gang?

21 A I don't have any information. Now, I'm not
22 sure if he'd been -- I haven't looked at his criminal
23 history, so I'm not sure if our Gang Unit has any
24 intel on him or not. That would be something that
25 would have to be gathered from the Gang Unit. But to

1 my knowledge, I don't have any information that he was
2 in a gang.

3 Q Tell me, what information would the Gang
4 Unit have? I'm not sure what they would be looking at
5 or what they might have available to them that could
6 indicate gang membership.

7 A If they had any prior arrests where they
8 photograph him with, say, some gang affiliated
9 tattoos, if they talked to Mr. Phillips in the past
10 and he admitted to being in a gang, I'm not sure how
11 they verify whether or not somebody is in a gang or
12 not, but I know they do an extensive and exhaustive
13 compilation of whether or not somebody is in a gang or
14 not. But I don't have any knowledge that Mr. Phillips
15 was in a gang.

16 Q Okay. When you say when they determine
17 whether someone is a member of a gang, it -- do they
18 have their own events of potential gang members that
19 they update on an ongoing basis?

20 MS. MILLER: Objection; to the extent this
21 is outside of the topics that Investigator Nixon
22 is here to speak about, but he can answer in his
23 personal capacity.

24 A I believe so. This is just what I've
25 learned that they have their own way of categorizing

1 potential members of gangs.

2 BY MR. FILIPOVITS:

3 Q Okay.

4 MR. FILIPOVITS: Now, I just want to
5 clarify, No. 4 is Facts known to the City,
6 including if Mr. Phillips' membership and/or
7 affiliation with groups considered by the City to
8 be gang. So I think it's within the scope. If
9 he doesn't know, that's fine and if that's the
10 qualification, that's fine, but I think it's
11 within the scope.

12 MS. MILLER: Sure. The question was about
13 what the Gang Unit does and how they compile
14 information. That's outside of the scope and
15 that was the objection.

16 MR. FILIPOVITS: Okay. I understand your
17 objection. Okay.

18 BY MR. FILIPOVITS:

19 Q So just to let you know, and, you know,
20 Staci can correct me if you wish, but the way this
21 works, Investigator Nixon, if I ask you a question
22 that goes beyond the scope of one of these
23 designations, you can answer that and should answer
24 that in your personal capacity. It's just that your
25 answer won't be binding on the City. So to the extent

1 Staci and I disagree about that, that's what we're
2 doing.

3 So I'm going to ask you a couple more
4 follow-up questions.

5 MR. FILIPOVITS: And Staci, I'll ask these
6 of him in his individual capacity to the extent
7 he can answer based on his personal knowledge.

8 THE WITNESS: Okay.

9 BY MR. FILIPOVITS:

10 Q With regard to -- I honestly forget the last
11 question I asked before all of that and what your
12 answer was, but I'm just trying to understand if the
13 Gang Unit has a compilation of, you know, tries to
14 track gang membership in some informal way that they
15 share amongst themselves or with others of the City?

16 A Do they have an informal way of sharing that
17 information?

18 Q Yeah, just, you know, do they have a list of
19 suspected gang members?

20 A Personally, I believe they do that no one
21 has access to. I've never seen that list of potential
22 gang members. It's usually not until something like
23 this happens that, you know, you hear on the news or
24 the family member, somebody shows up at the precinct
25 to protest the shooting and that's usually how I'll

1 find out about it is when somebody shows up to protest
2 it.

3 Q You mean like a citizen shows up and says I
4 shouldn't be on this list?

5 A No, no, no. Let's say like -- I remember
6 hearing that Mr. Phillips' family or some friends or
7 something had shown up at the Annex to protest the
8 shooting and some of those members -- some of those
9 people were gang members. I think there was an
10 unofficial hit put out on Abdulahad that, you know,
11 somebody was going to kill him or something like that
12 shortly after the shooting happened. And if I
13 remember correctly, that was gang-related I believe.
14 And that's the only way I find out about some of this
15 stuff.

16 Q Okay. Tell me what you know about this
17 unofficial hit that you heard about. How did you hear
18 about that?

19 A Just the word of mouth. Just people
20 talking. And that was right after the incident
21 happened. So this would have been 2017.

22 Q And when you say people talking --

23 A Yeah, just Officers walking, Hey, man, did
24 you hear about such and such and such. So there's no
25 real way of verifying it, but, you know, because I

1 don't know where the source -- where it actually came
2 from. But generally our Homeland Security would be
3 the ones that would tell the Officer, Hey, we just
4 verified X, Y, and Z, you need to do this, you need to
5 do that. And our Homeland Security, they make sure
6 the Officers are aware of any type of threat on their
7 life based on a shooting like this.

8 Q Okay.

9 MR. FILIPOVITS: How about we take -- I
10 probably got, I don't know, 30 minutes or so, but
11 I want to take a quick five-minute break if
12 that's okay with you guys. Is that okay?

13 MS. MILLER: Yes, that's fine.

14 (A brief recess was taken at 1:02 PM)

15 BY MR. FILIPOVITS:

16 Q Is the City aware that a search warrant was
17 served on Abdulahad and Robeson-El to obtain their
18 cell phones?

19 A No, I did not know that.

20 Q You did not? Okay.

21 A It may be in the file, but I just haven't
22 seen it in the file, but I wasn't aware.

23 Q Would you take a look and tell me if you
24 have that in the file.

25 A Okay. After taking a quick look at the

1 file, I don't see a copy of the search warrant in
2 here.

3 Q Okay. Is that file that you have with you
4 today the complete OPS file the City has maintained?

5 A Correct. It is.

6 Q I'm going to show you Exhibit 4.

7 (Plaintiffs' Exhibit No. P-4 was marked for
8 identification.)

9 BY MR. FILIPOVITS:

10 Q You've never seen this document before?

11 A No.

12 Q You're aware that -- does the City have any
13 awareness of any communications after the incident
14 between Abdulahad and Robeson-El?

15 A No. This is a -- Investigator Appell is
16 with the DA's office at the time so, no, this is my
17 first time seeing this.

18 Q This page 4 of 27 that I'm showing you is
19 entitled Affidavit of Search Warrant and Seizure. As
20 you can see in the middle of that page and the item to
21 be searched is a cellphone, correct?

22 A Correct.

23 Q Okay. This is still part of the Affidavit
24 for the Warrant Application. As you can see here, the
25 Warrant Affidavit says Abdulahad called Robeson-El six

1 times on January 27th, 2017 and sent nine text
2 messages between the 27th and 28th. Robeson-El sent
3 five text messages to Abdulahad on those same dates.

4 You agree that January 27th is one day after
5 the incident?

6 A Yes.

7 Q Is that level of communication between an
8 Officer who shot someone in the head and his partner
9 something that the City, you know, typically thinks is
10 appropriate?

11 MS. MILLER: Objection, but you can answer.

12 THE WITNESS: Yes, ma'am.

13 A When we get to talk to them, it's usually
14 not right away, like the same day when we get our
15 administrative statement, but once we do talk to the
16 Officer, we tell them, we typically will tell them
17 don't discuss this with anyone other than your
18 representative or your attorney. So I'm sure
19 Investigator Half had not got to him and told him not
20 to talk about this to anybody other than his attorney
21 but.

22 Q Going down to page 15. It reads, On
23 February 13, 2017, Investigator Half reminded
24 Abdulahad and Robeson-El not to contact any facts of
25 the internal investigation. Then the warrant

1 affidavit continues and contains a list of calls after
2 that admonition from Investigator Half the 15, 16, 17,
3 18 and on 18 we see rise there a hundred and 63
4 instances of communication after that admonition from
5 Investigator Half. The City and APD was not aware of
6 this fact before this date?

7 A I guess, again, they were partners, I
8 can't -- well, I can't remember if he was relieved
9 immediately right after the shooting. He probably
10 was. I can see where it look, you know, a certain
11 kind of way.

12 Q Did any of your predecessors conduct any
13 inquiry or investigation or ask for this information
14 from the Fulton County District Attorney's Office?

15 A No, we didn't know it exists. I didn't know
16 it existed.

17 Q Are Officers required by any policies to
18 report when they are served with a search warrant?

19 A It would be good if the Officer let their
20 Supervisor know. I have to see if it's a policy
21 violation if they don't. That's a good question. I
22 would have to look into that.

23 Q Did the City look at the video evidence and
24 compared the video evidence to Officer Abdulahad's
25 statement as to his position in the vehicle?

1 A Say that again, sir.

2 Q Has the City, as part of its internal
3 investigation, looked to the video of the incident?
4 The security camera video, the one we were discussing
5 earlier.

6 A Yes.

7 Q And compared that video to Abdulahad's in
8 which he recounts that he was hanging out of the car?
9 I'm paraphrasing him.

10 A Correct, yes.

11 Q Has the City compared those two accounts to
12 determine whether Abdulahad made any false statement?

13 A I remember looking at that. If I remember
14 correctly, Abdulahad said his legs were hanging out of
15 the car and in the video from what I can remember
16 about the video, I don't believe I saw his legs
17 hanging out the car, but then again, it could be --
18 not saying that he was intentionally trying to be
19 untruthful, it could be his recollection of how
20 everything went down or how everything that happened.
21 And it would be up to my Supervisors if they want --
22 once this gets closed on the DA's side, I will brief
23 my Supervisors that they want me to bring him in to
24 talk about that then I will.

25 Q And what's the purpose of waiting for it to

1 be resolved on the DA's side?

2 A Bringing him back in?

3 Q What's the purpose of waiting? Why do you
4 say wait until the DA's side is resolved before you --

5 A It's just because that -- that is -- that
6 weighs a whole lot heavier than what we can do.
7 Ultimately we can, you know, if they went that far, we
8 can fire him, but over there, they can actually indict
9 him and he can go to jail. So it's just a matter
10 of -- I could bring him in, question him, but it won't
11 be closed until they get done with their side. That's
12 the only reason I said I would wait for them to get
13 finished with -- the DA's side get finished with
14 whatever they are going to do because once I bring him
15 back over here and I question him about it, then I can
16 go ahead and wrap everything up, close it up and turn
17 it in.

18 Q So the City does not intend to perform any
19 investigation of whether Abdulahad or Robeson-El
20 violated City policy -- any further investigation
21 until the District Attorney's Office concludes its
22 investigation and charging decision?

23 A Well, this right here was just made new to
24 me, so I probably will brief my Supervisor about this
25 because I had no idea about this.

1 Q Okay. So I guess it sounds like your answer
2 is that the City may not wait until the District
3 Attorney's Office concludes its investigation. I
4 just -- I'm just trying to understand if any
5 decision -- any employment decision is going to await
6 the charging decision by the DA's office?

7 A Correct, yeah, any employment decision will
8 be made after the DA's office makes their decision.

9 Q Okay. Will any employment decision be
10 influenced by the District Attorney's decision?

11 A Yes.

12 Q And if the District Attorney's Office
13 decides to charge either Officer with a crime, how
14 would that influence the employment or disciplinary
15 decision?

16 A It would ultimately be up to the Chief. The
17 Chief normally, if we have an Officer that's been
18 charged with a felony, we had another high-profile
19 shooting that happened last year almost about this
20 exact time in which that --

21 Q Are you referring to Rayshard Brooks here?

22 A Correct, yes. And Officer Brosnan was
23 charged with a felony. He is still an employee of the
24 department, but he's not receiving a paycheck. And so
25 Abdulahad and Robeson-El would be in that same

1 position. If they're indicted -- well, I'm sorry, if
2 they're charged with a felony, they would be placed --
3 would be suspended without pay.

4 Q The Officer you referenced with regard to
5 the Brooks case, what's his name?

6 A Rolfe.

7 Q Okay. I thought you said a different name.

8 A Well, it was two Officers. Rolfe was
9 actually fired, he was terminated, but Brosnan,
10 Brosnan, he was not fired.

11 Q If the District Attorney's Office does not
12 charge a crime, what bearing would that decision have
13 on any OPS disciplinary decision?

14 A That would be up to the Supervisor when I
15 turned it in. And what typically will happen is, we
16 would get a letter saying that the DA's office does
17 not intend to charge Robeson-El or Abdulahad. So then
18 I would take my file, hand it to my Supervisor, he
19 would go through it and I would let my Supervisor know
20 what I see are possible policy violations. Then they
21 would review it and make sure they concur or don't
22 concur with my finding.

23 Q Okay. And that -- that ultimate report of
24 yours will await the disposition from the District
25 Attorney, right?

1 A Yes, sir.

2 Q As a matter of City policy, Officers are --
3 you expect an Officer to know that if they're the
4 subject of an internal investigation or a criminal
5 investigation, they should not communicate with any
6 witness about the facts of that investigation or the
7 underlying incident?

8 A I would let them know to not communicate?

9 Q I'm not asking you if you let them know.
10 Would you expect, as a matter of policy, an Officer to
11 know that they should make those communications even
12 if they haven't been admonished to avoid them?

13 A Yeah, only because I would hate to be asked
14 the question if I was either of the Officers involved,
15 Hey, did you talk to such and such, you know, after
16 the shooting. And if they answer yes, then it's what
17 did you talk about? Then it just makes you look -- it
18 can look a certain kind of way.

19 Q Right. And Officers know that witnesses to
20 a crime just shouldn't talk to each other as a matter
21 of general policing an investigation. You would
22 expect that, right?

23 MS. MILLER: Objection, but you can answer.

24 A Yeah, but typically we tend to forget about
25 it. I'm just speaking just personally because it was

1 a traumatic event, Officers aren't used to being
2 victims. And I'm not sure what they talked about in
3 those text messages and phone calls. I'm not -- I
4 can't remember if he was relieved immediately after
5 this or not. If he was still on the street then those
6 conversations could have been about -- basically we're
7 handling. I'm just not aware.

8 Q Right. So we don't know the content. Based
9 on the Search Warrant Affidavit that we discussed, the
10 City does not know -- well, the City just generally
11 does not know the content of any of those
12 communications, right?

13 A Correct.

14 Q Has not asked these Officers about the
15 content of these communications?

16 A Correct.

17 Q Has not asked the District Attorney's Office
18 to supply any of the content of the communications
19 they obtained following the search and execution of
20 the warrants on the cell phones?

21 A Correct.

22 Q Do you have -- are City Officers -- well,
23 Abdulahad and Robeson-El, as of January 26, 2017,
24 would they have as a matter of practice have been
25 issued City cell phones?

1 MS. MILLER: Objection. To the extent it's
2 outside the scope of what Investigator Nixon is
3 here to speak about, but he can answer in his
4 personal capacity.

5 THE WITNESS: Yes, ma'am.

6 A It depends on what unit you're in. Let's
7 say the unit I'm in, Internal Affairs, were issued
8 cellphones. When I was in Sex Crimes, we were issued
9 cell phones, but there are units in the department
10 that they are not issued cellphones. Now, this was a
11 few years ago. But now, I'm not sure if everyone is
12 issued a cell phone or not, but I do know there are a
13 lot of Investigators with cellphones.

14 BY MR. FILIPOVITS:

15 Q Okay. So you do not know, and here, I'm
16 asking again of the City's knowledge of post-shooting
17 communications between Officers. The City has no
18 knowledge of whether any such communications happened
19 on City phones or on personal phones, right?

20 A Correct.

21 Q Going back to the investigation before the
22 arrival of the GBI, well, I'm sorry, not the
23 investigation, that's not the right word, but just the
24 preservation of the crime scene prior to the arrival
25 of the GBI. There's no employee with the City of

1 Atlanta other than Abdulahad and Robeson-El who
2 reported to the City or memorialized in any way the
3 odor of marijuana coming from the vehicle, correct?

4 A Correct.

5 Q Okay. Give me five minutes once more and
6 then we should be able to wrap up shortly thereafter.

7 A Yes, sir.

8 (A brief recess was taken at 1:28 p.m.)

9 MR. FILIPOVITS: Those are all the questions
10 that I have for you, right now, Investigator
11 Nixon. You're -- the City's attorney may have
12 some for you. And if she does, I may have a
13 couple of follow-ups.

14 MS. MILLER: I don't have any questions for
15 you Investigator Nixon. Thank you for joining us
16 today.

17 THE WITNESS: Thank you.

18 MR. FILIPOVITS: All right. Thank you for
19 your time and, you know, I appreciate you coming
20 in to help us out with this.

21 THE WITNESS: Thank you. Everyone take
22 care.

23 (The Deposition concluded at 1:31 p.m.)
24
25

DISCLOSURE

STATE OF GEORGIA Deposition of Inv. Arthur
Nixon, Jr., Individually and
as a 30(b)(6) representative
of the City of Atlanta
COUNTY OF BARROW Date: June 8th, 2021

Pursuant to Articles 7.C and 10.B of the Rules
and Regulations of the Board of Court Reporting of the
Judicial Council of Georgia, I make the following
disclosure:

I am a Georgia Certified Court Reporter. I am
here as a representative of American Court Reporting
Company, Inc.

I am not disqualified for a relationship of
interest under provisions of O.C.G.A. 9-11-28(c).

American Court Reporting Company, Inc., was
contacted by the offices of Spears & Filipovits, LLC
to provide court reporting services for this
deposition.

American Court Reporting Company, Inc., will
not be taking this deposition under any contract that
is prohibited by O.C.G.A. Sec. 9-11-28(c).

American Court Reporting Company, Inc., has no
exclusive contract to provide reporting services with
any party to the case, any counsel in the case, or any
reporter or reporting agency from whom a referral
might have been made to cover this deposition.

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charge its usual and customary rates to all parties in
the case, and a financial discount will not be given
to any party to this litigation.

This the 29th day of June, 2021.

Vivian Whitlow, CVR, CCR
Certified Court Reporter
#6542-7835-9986-9952

C E R T I F I C A T E

STATE OF GEORGIA

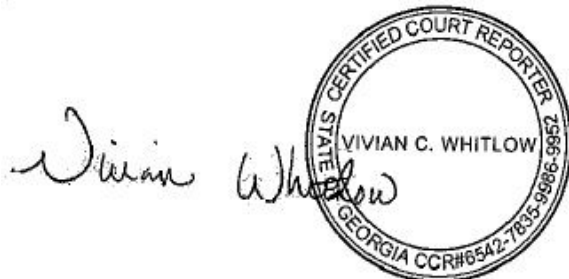
COUNTY OF BARROW

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the proceedings were reduced to typewriting under my direction and control.

I further certify that the transcript is a true and correct record of the evidence given at the said proceedings.

I further certify that I am neither a relative or employee or attorney or counsel to any of the parties, nor financially or otherwise interested in this matter.

This the 29th day of June, 2021.



Vivian Whitlow, CVR, CCR
Certified Court Reporter
#6542-7835-9986-9952

E R R A T A S H E E T

In Re: Deaunna Phillips, Plaintiff, by and through her
 Mother, Sparkle Stidwell, as next friend v.
 Yasin Abdulahad
 In the Northern District Court Northern
 District of Georgia Atlanta Division
 File No. 1:19-CV-00401-MHC

Deposition of Inv. Arthur Nixon, Jr., Individually and
 as a 30(b)(6) representative of the City of Atlanta,
 taken on June 8th, 2021.

I have read the transcript of my deposition and find
 that no changes are necessary _____.

Inv. Arthur Nixon, Jr.,
 Individually and as a 30(b)(6)
 representative of the City of
 Atlanta

or

Having read the transcript of my deposition, I wish to
 make the following changes: (Please state reason.)

Page _____, Line _____:

Page _____, Line _____:

Page _____, Line _____:

Page _____, Line _____:

 Inv. Arthur Nixon, Jr., Individually
 and as a 30(b)(6) representative
 of the City of Atlanta

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